Calendar No. 219

100TH CONGRESS *1st Session*	SENATE	REPORT 100-93

AUTHORIZATION OF APPROPRIATIONS FOR NTIA

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 828

JULY 1 (legislation day, JUNE 23), 1987.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1987

91-010

S263-9

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Calendar No. 219

100TH CONGRESS
1st Session

SENATE

REPORT
100-93

AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

JULY 1 (legislative day, JUNE 23), 1987.—Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 828]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 828) to provide authorization of appropriations for activities of the National Telecommunications and Information Administration, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill do pass.

PURPOSE OF BILL

The purposes of the bill, S. 828 as reported, are twofold. First, the bill authorizes $14,718,000 for the National Telecommunications and Information Administration (NTIA) for fiscal year 1988 and $15,000,000 for fiscal year 1989. Second, the bill requires the Secretary of Commerce to assist in restoring the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT) and authorizes $1,700,000 for each of the fiscal years 1988 and 1989 for this purpose.

BACKGROUND AND NEEDS

National Telecommunications and Information Administration

NTIA is the primary executive branch agency responsible for the development and presentation of domestic and international communications and information policy. It serves as the principal advisor to the President on these matters. Its other functions include: preparing the U.S. position for international communications con-

ferences; managing the Federal Government's use of the radio frequency spectrum; performing research and studies on telecommunication issues; and administering the Public Telecommunications Facilities Program (which grants funds to initiate and maintain public broadcast facilities).

From 1978, when it was first established, until about 1981, NTIA was extensively involved in formulating communications policies. It participated actively in Federal Communications Commission (FCC) proceedings and testifed before and worked with the Congress on a number of communications bills. As a result, Congress increased NTIA's budget over that period to over $16 million in fiscal year 1982. Anticipating that NTIA's workload would be reduced with the advent of deregulation, Congress reduced NTIA's budget by about $4 million for fiscal years 1983 and 1984.

Beginning in 1985, however, Congress determined that NTIA's expertise was needed to study and develop policy in the domestic telecommunications arena and particularly in the international telecommunications field. The Congress strongly believed that U.S. communications and information policy should orient itself more to the international marketplace and that the government should assist the private sector's efforts to offer its goods and services abroad. As a consequence, Congress permitted NTIA's budget to grow slightly over the next few years.

The Committee believes that NTIA's funding level should again be slightly increased to $14,718,000 in fiscal year 1988 and $15 million in fiscal year 1989 to allow it to continue its domestic activities and its oversight of the spectrum, and to expand its international activities.

1. Domestic activities

Over the past two years, NTIA has conducted studies of several key communications topics, including the development of pro-competitive and deregulatory policies at the State level, the growth of competition in the local exchange market, and telecommunications trade. NTIA has also joined with the FCC in studying the scrambling of satellite-delivered programming. While the Committee does not necessarily agree with the conclusions reached in these studies and reports, the Committee believes that they assist the debates on telecommunications issues and believes that it is important for NTIA to continue to produce them.

2. International activities

The Committee is eager for NTIA to devote greater attention to international communications issues. The United States has recently encountered difficulties in a number of international arenas. NTIA should increase its efforts to promote U.S. interests internationally.

(a) Representation at International Conferences.—NTIA represents the United States at numerous international communications conferences. The decisions made in these conferences have important effects on American business opportunities, as well as our foreign policy and national security. They demand vigorous advocacy by NTIA on behalf of U.S. interests.

The first session of the Space World Administrative Radio Conference (Space WARC), held in 1985, considered methods of allocating satellite frequencies and orbital locations. The United States faced significant opposition to its desire for flexibility in making these assignments. Intersessional meetings are now being held, and the second Space WARC session will convene next year. The Committee believes that NTIA and the other government agencies must actively prepare for these future meetings and that these agencies must soon find a person to replace the Chairman of our first session delegation.

The United States also has a great deal at stake in several other upcoming conferences, such as the 1987 Mobile Services World Administrative Radio Conference, the 1988 World Administration Telegraph and Telephone Conference (WATTC), and the 1989 International Telecommunication Union (ITU) Plenipotentiary Conference. The United States will have to surmount numerous obstacles if it is to achieve its policy objectives at these meetings. As with the Space WARC, NTIA and other government agencies must prepare early and fully for these meetings and should increase the resources devoted to these efforts. The WATTC will be especially important to the future provision of international telephone and data processing services. The Committee expects the administration to act expeditiously to appoint a Chairman to lead our delegation to the WATTC.

(b) Promotion of U.S. Telecommunications Trade.—The United States has developed a large and growing deficit in telecommunications trade. NTIA should focus an increasing portion of its energies to improving this situation, especially by working to open foreign markets to U.S. firms.

Recent experience shows that the conferences of the ITU and other international organizations can no longer be treated separately from discussions on telecommunications trade. These conferences can, for instance, adopt technical standards that make U.S.-manufactured equipment incompatible with foreign networks and thus limit American export opportunities. NTIA should aim to coordinate the U.S. approach to these international meetings, discussions, and negotiations so that the trade policies of the United States are best presented and advanced.

NTIA should continue to promote U.S. trade by engaging in direct negotiations with officials from foreign countries. The recently signed "China Protocol", a trade agreement negotiated by NTIA officials with the People's Republic of China, is one example of how NTIA can assist American businesses develop working relationships with foreign governments. NTIA should closely monitor and enforce these agreements to ensure that they result in actual benefits to the United States.

NTIA has performed studies of telecommunications development in less developed countries to identify potential markets for American firms. The Committee encourages NTIA to continue to conduct such studies.

PEACESAT Program

The Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT) provided low-cost communications serv-

ice throughout the Pacific region, especially to smaller island communities, for over fourteen years. The program provided educational, medical, cultural, and emergency services to communities that would not otherwise have had access to such services. The program was discontinued in 1985 when the satellite used to carry the PEACESAT communications ran out of fuel and was deactivated. The bill as reported authorizes the Secretary of Commerce to assist in re-establishing the PEACESAT program.

1. History of PEACESAT

In 1966, the National Aeronautics and Space Administration (NASA) launched the first Applications Technologies Satellite (ATS-1) for experimental purposes. By 1969, NASA had completed its domestic experiments program and the satellite became available for use by other services. The University of Hawaii entered an agreement with NASA in 1971 that permitted the PEACESAT program to operate over the satellite's spare capacity free of charge. The design of the ATS-1 permitted access by very small and inexpensive ground stations, costing around $5,000 each.

The initial PEACESAT system consisted of ground stations on the campuses of the University of Hawaii and one at Wellington Polytechnic in New Zealand. The network developed quickly and eventually provided services to 22 Pacific Basin nations (with over 100 earth stations), including American Samoa, the Northern Marianas, Guam, Papua New Guinea, New Caledonia, Tonga, Fiji, the Federated States of Micronesia, and the Cook Islands.

The uses of the PEACESAT network were extensive and varied. Doctors used the network to talk medical assistants through surgery. The Red Cross used it for emergency relief. Health professionals regularly exchanged information. Such discussions proved vital, particularly during the 1981 cholera outbreak in the South Pacific. Scientists working in the areas of vulcanology, tropical agriculture, and renewable energy were frequent users of PEACESAT. The Universities of the South Pacific, Papua New Guinea, Guam, Wellington, and Hawaii all used the ATS-1 to bring their educational programs to the remote island communities.

By 1985, the ATS-1 had run out of station-keeping fuel and began an uncontrolled drift eastward. On August 1, 1985, NASA deactivated the satellite to prevent it from interfering with communications of neighboring satellites. As a result, the PEACESAT program was effectively ended. (About 12 of the earth stations formerly using the ATS-1 have continued to operate using NASA's ATS-3 satellite, positioned over South America, for two hours each day.)

2. Previous legislative activity

Recognizing the value of the PEACESAT program to the people of the Pacific region and to the United States' interests, Congress in 1985 directed NASA to perform a study investigating alternative means of providing satellite communications services in the Pacific region. The Congressional report stated:

> The [Senate] Committee [on Commerce, Science, and Transportation] also is aware of NASA's intent to shut down the ATS-1, effective August 1, 1985. The loss of this

> Pacific Basin-New Zealand-Australia Communications Network will seriously affect important professional networks that have been established over long periods of time. With this in mind, the Committee requests that NASA find another option to take the place of ATS-1 in the Pacific Basin as soon as possible, and report back to the Committee on its efforts within 6 months.

Senate Committee on Commerce, Science, and Transportation, Report 99-91 on H.R. 1714 (June 3, 1985).

NASA completed its report by January of the following year. The report discussed several existing and planned satellite systems. In general, the report found that the commercial satellite systems (such as INTELSAT, AUSSAT, and PacStar) provided technically feasible options but the costs of building earth stations for these systems were prohibitively high.

The report identified three satellites as potential replacements for the ATS-1: a Marisat satellite owned and operated by a consortium headed by Comsat General Corporation and leased by the Department of the Navy, and two Geostationary Operational Environmental Satellites (GOES) owned and operated by the National Oceanic and Atmospheric Administration (NOAA). (The report mentioned that two Lincoln Laboratory Experimental Satellites (LES-1 and LES-2) might also be available. Subsequent information revealed that their use by the U.S. Air Force precluded their use for PEACESAT.)

Senator Inouye, the primary proponent of legislation to re-establish PEACESAT, held discussions with officials from NOAA and the Department of the Navy, both of which opposed the use of their frequencies for PEACESAT. Senator Inouye then proposed that the Senate Appropriations Subcommittee on Defense add language to assist PEACESAT to the report accompanying the Department of Defense Appropriations bill for fiscal year 1987.

Senate Report 99-446 directed the Navy to make the UHF frequencies available to PEACESAT and to make up to $1,000,000 available from its budget to fund startup costs for the first year of operation of PEACESAT over a new satellite. The House-Senate conferees removed the funding language but retained the language directing the Navy to make the frequencies available. The Navy, however, has ignored this report language and has refused to make the frequencies available to PEACESAT.

3. The reported bill

(a). Oversight by the Secretary of Commerce.—As well as donating the ATS-1 to the PEACESAT program, NASA also assisted in administering the PEACESAT program and in operating the satellite. Since the ATS-1 was deactivated, however, no government agency has been responsible for representing the interests of the PEACESAT program.

Under this legislation, the Secretary of Commerce will be responsible for representing the PEACESAT users' interests. The Secretary of Commerce will choose the satellite services best able to replace the ATS-1, will acquire the necessary communications services, and will oversee the operation of the PEACESAT program.

NTIA's experience with satellite and international communications issues, with managing the Federal Government's use of the radio spectrum, and with administering the Public Telecommunications Facilities Program, give it the expertise to carry out these functions.

NTIA's expertise will be especially valuable in determining which set of satellite services (including space segment and ground segment) will best serve the long-term and short-term needs of the Pacific island communities. As mentioned above, the NASA report found the GOES satellite and the Marisat satellite to be the most feasible options to replace the ATS-1. As the information given below indicates, however, this issue is complex and will require further study by NTIA.

(i). The GOES satellites.—Use of one of the GOES satellites would be essentially free of charge because the satellite is owned by the U.S. Government. The GOES satellites, however, may not be capable of providing service to all the former ATS-1 users. It appears that the GOES satellites can be placed at no farther west than 140 degrees West to remain within the operational reach of NOAA's Wallops Island satellite control center. This position would not allow the satellite to provide service to the Philippines, Indonesia, Western Australia, Japan and part of New Guinea. Positioning the satellite farther west would require that a separate earth station facility be employed to track and control the satellite. No other tracking and control center appears to be available, and the expense of constructing and operating a new control center for a single satellite would be prohibitively high.

Even if one of these satellites could be repositioned at an acceptable location, there may be other problems with using the GOES satellites. The UHF frequencies operating over the GOES satellites are registered with the ITU for use only for weather-gathering purposes. NOAA has opposed PEACESAT's use of these frequencies over the GOES satellites out of a fear that once one non-environmental program is permitted to operate in these frequencies, other programs will follow.

Subsequent discussions with NOAA officials have revealed that the VHF channel on the satellite may provide an alternative to the UHF channel, but it is unclear whether the VHF frequencies are suitable for use by PEACESAT. VHF frequencies can generally be used to carry two-way, "push-to-talk" communications similar to the service provided to PEACESAT users over the ATS-1. The particular VHF frequencies available over the GOES satellites are not subject to the same regulations as the UHF frequencies. VHF capacity was built into the GOES satellite, however, primarily to permit one-way communications between the satellite control center and the satellite itself. The band has only been used to control the satellites and has never been used to carry voice or two-way communications. Some testing of the VHF transmission capabilities over the GOES satellites must be carried out before it can be determined whether the GOES satellites are technically capable of satisfying the PEACESAT users' needs using the VHF frequencies.

(ii). The Pacific Marisat satellite.—The Pacific Marisat satellite can serve all the former users of the ATS-1 at its current position.

While use of the UHF frequencies over this satellite will require that the old earth stations be modified to handle UHF traffic (they formerly operated over VHF), the NASA report estimates that these modifications should cost only about $3,500 per earth station (if 50 or more are purchased). The governments of the affected communities have agreed to bear the cost of modifying the terminals.

Use of the space segment over the Pacific Marisat satellite will not be free of charge, however. The satellite is owned and operated by a consortium headed by Comsat General Corporation, which is currently leasing a portion of the satellite's capacity to the Navy. Although the annual lease fee is uncertain and may be subject to negotiation, use of this satellite will require a significant annual payment to Comsat. Despite this annual lease fee, it appears that the Pacific Marisat satellite would be the better candidate for replacing the ATS–1 because of its ability to cover the entire Pacific region. It is for this reason that the bill as reported authorizes use of the UHF frequencies on the Marisat satellite by PEACESAT despite the Navy's objection.

(iii). Commerical systems.—Both the GOES and the Pacific Marisat satellites may only be short-run options, however. Although the NASA report asserts that these satellites are expected to last for at least ten years, these satellites' useful lives may be more limited. If this is correct, a commercial system may be capable of providing the most cost-effective alternative in the long run. The costs of earth stations needed to operate with these systems are generally much more expensive than those needed to operate with the Marisat satellite. The cost of space segment, however, may prove less expensive. Intelsat's Project Share and Vista programs, for instance, offer a rate discount and special services that may prove useful for the Pacific community. The PacStar and Aussat systems planned for service within the next few years may also service the needs of the former ATS–1 users.

The Committee expects that NTIA will conduct its own inquiry into the technical options for re-establishing the PEACESAT program using the information contained in the NASA report, information contained in this report, and any other information it may find. The Committee urges NTIA to explore every possibility and to weigh the long-term as well as the short-term benefits of each system. As the above discussion indicates, NTIA will need to consider the entire package of facilities and services associated with each option, including the space segment and the ground segment. Given that NASA has already conducted its report and that so much discussion has already occurred on this matter, however, the Committee expects that NTIA will complete its own inquiry of the alternatives quickly and move to implement the PEACESAT program as soon as possible.

(b). Authorization of the UHF Frequencies for Use by PEACESAT.—The portion of the UHF frequencies available for use over the Pacific Marisat satellite are currently licensed for use by the Department of the Navy. The Navy refuses to allow PEACESAT to use its frequencies. This bill as reported would authorize the use of these frequencies by PEACESAT for a period of three years, except that this permission would be revoked if the President determined that these frequencies were essential to our national security.

Comsat General and the Navy have entered into a contract which gives the Navy the option to lease a wideband (500 Kilohertz) channel and two narrowband (25 kHz) UHF channels over the Pacific Marisat satellite. To date, the Navy has exercised its options to lease the wideband channel and one of the narrowband channels but has chosen not to exercise its option to lease the other 25 kHz channel. This 25 kHz channel would fully meet the needs of the PEACESAT program.

The Navy opposes use of the channel by PEACESAT, apparently for fear of setting a precedent of civilian use of a frequency licensed for use by the military. In a letter to Senator Inouye, dated November 20, 1985, Vice Adm. R.E. Kirksey, Director, Space, Command and Control of the U.S. Navy, stated:

> Although the [Pacific Marisat] satellite is owned by Comsat General, the frequencies used [by the Navy] are specifically registered for mobile military satellite service by [NTIA] and by the International Telecommunications Union Radio Regulations. Historically, the United States has been a staunch supporter of these regulations when civil agencies of other countries have applied for use in this frequency band. In addition, the original FCC license granting [the Navy] use of these particular frequencies states they will not be used by civil agencies. These regulations along with NATO, Combined Communications Electronics Board (CCEB) and other multi-national agreements form the basis for the standardization and interoperability of terminal equipment within our military services and among our allies. As the primary band for tactical military operations, it is essential to restrict this band for military use. These same frequencies will be used on UHF replenishment satellites as the [Marisat] and FLTSAT satellites begin to fail.

In a letter to Alfred Sikes, Administrator of NTIA, dated April 15, 1987, Donald Latham, Assistant Secretary of Defense, states that the position of the Department of Defense has not changed since the November 1985 letter to Senator Inouye.

The Committee does not find the arguments raised by the Department of the Navy to be persuasive. While the ITU regulations do not specifically authorize use of this fequency band by a program such as PEACESAT, the ITU is likely to permit PEACESAT to use these frequencies on a temporary basis if the proper application is made. Although the Committee is hesitant to participate in the process of assigning frequencies, the Committee believes that the exigencies of the PEACESAT users' situation require that a limited use be permitted in this case. The Committee expects the Secretary of Commerce to take the proper steps to register PEACESAT's use of the frequency with the ITU should the Secretary of Commerce determine that the Marisat satellite provides the best option to replace the ATS–1.

Further, this legislation only authorizes PEACESAT to use the UHF frequencies on a temporary basis (for three years) and does not assign the band to PEACESAT. The frequency band will remain officially allocated to the Navy. As noted, the President

may preempt PEACESAT's use of the frequencies in favor of the Navy should national security interests require.

While these frequencies are registered for use by the military with NTIA and the FCC, these licenses do not have the status of legislation and can be changed upon application. The NASA report found that PEACESAT could operate on the second 25 kHz channel without interfering technically with the Navy's use of the other channels. The Navy has never disputed this claim.

Finally, although the Navy claims that "it is essential to restrict this band for military use," the Committee believes that the foreign policy and national security interests of the United States are better served by allowing PEACESAT to use the frequency than by allowing the Navy to reserve the channel without using it. The Pacific Basin is an area of increasing economic and geopolitical concern. Japan, the Soviet Union, and China are all eager to expand their influence in the region. Recent developments, especially in Kiribati and Vanuatu (with which the Soviet Union has entered into fishing agreements), the Philippines, Micronesia, Fiji, and within the ANZUS Alliance, make the political and strategic situation particularly vulnerable to pressure from other world powers.

Communications assistance to the Pacific communities can be a vital means of retaining U.S. influence in the region. Countries with different views toward the free flow of information may influence the governments in this region by limiting or otherwise controlling their access to sources of information, thereby restricting the development of a free and competitive telecommunications environment. Should these Pacific communities begin to rely on other nations for their news and information, attitudes and institutions antithetical to our values and interests may result. Such a situation would be untenable.

National security interests are preserved in the bill (1) by limiting the grant of permission to use the frequencies to a period of three years, and (2) by permitting the President to preempt the PEACESAT program's use of the frequency if essential to our national security.

(c). Initial Funding for PEACESAT.—Federal funding is necessary to cover three costs:

(a) Administrative costs incurred by the Secretary of Commerce for assisting in establishing and administering the PEACESAT program;

(b) Annual maintenance and administrative costs incurred by the managers of the PEACESAT program;

(c) Annual costs of providing the satellite services. The Committee expects that the Secretary of Commerce will negotiate the lowest possible prices for the necessary services.

The Committee has determined that the upper limit of funds necessary to re-establish the PEACESAT program would be $1.7 million per year. The Committee expects that the actual costs of re-establishing the program will be much less.

The bill as reported authorizes funding for only two years in order to encourage PEACESAT to develop independent sources of funding. The bill charges the Secretary of Commerce with the duty to investigate potential long-term solutions to the problem of providing low-cost communications services to the people of the Pacific

Basin. The Secretary of Commerce shall report to Congress within one year of the enactment of this bill on the available long-term options.

In summary, the PEACESAT program can be restored at minimal cost over one of several satellite systems. While the use of the UHF frequencies over the Pacific Marisat satellite appears to be the best option at this time, the GOES satellites or some other satellite may also prove to be capable of satisfying the PEACESAT users' needs. NTIA has the expertise to determine which satellite system is best suited for the PEACESAT program. The Committee believes that providing start-up funding for the PEACESAT program will serve to revive the program until the program can find funds to operate independently of U.S. Government support.

The PEACESAT program will provide valuable, low-cost communications service to people sorely in need of such services. Restoration of PEACESAT both promotes U.S. foreign policy goals and displays a humanitarianism that will create enormous goodwill for the United States in international arenas.

LEGISLATIVE HISTORY

S. 828 was introduced on March 25, 1987 by Senator Inouye, with Senators Hollings, Danforth and Packwood as co-sponsors. This legislation concerned only the funding levels for NTIA for fiscal years 1988 and 1989. The Communications Subcommittee held a hearing on this bill on March 26, 1987. The sole witness at this hearing was the Assistant Secretary of Commerce for Communications and Information, Alfred Sikes. On June 4, 1987, the Committee ordered the bill to be reported favorably, with an amendment by Senator Inouye to restore PEACESAT, a program providing satellite communications services to the Pacific Ocean region.

SUMMARY OF MAJOR PROVISIONS

The first section authorizes funding for NTIA.

Section 2 contains the following provisions to assist in re-establishing PEACESAT:

(*a*) The Secretary of Commerce is required to oversee the establishment and operation of the PEACESAT program;

(*b*) PEACESAT is permitted, if necessary, to use a UHF channel on the Pacific Marisat satellite currently owned by Comsat General and leased by the Department of the Navy;

(*c*) Funding is authorized to re-establish PEACESAT.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 10, 1987.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 828, a bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 828.

2. Bill title: A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration.

2. Bill status: As reported by the Senate Committee on Commerce, Science, and Transportation, June 4, 1987.

4. Bill purpose: The bill authorizes for activities of the National Telecommunications and Information Administration (NTIA) $14.7 million for fiscal year 1988, $15 million for fiscal year 1989, and such sums as may be necessary in fiscal years 1988 and 1989 for increases in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs. The bill also authorizes $1.7 million to the Department of Commerce in each of fiscal years 1988 and 1989 for the development and acquisition of satellite communications services for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization levels:					
NTIA (specified)	14.7	15.0			
NTIA (estimated)	.2	.4			
PEACESAT	1.7	1.7			
Total authorizations	16.6	17.1			
Estimated outlays	13.3	16.2	3.4	0.8	

The costs of this bill fall within budget function 370.

Basis of Estimate: For purposes of this estimate, it was assumed that the amounts authorized in the bill would be appropriated prior to the beginning of each fiscal year. The increase for salary, pay, retirement and other employee benefits required by law for 1988 and 1989 are estimated consistent with the CBO baseline pro-

jections. Outlays reflect historical spending patterns for the ongoing activities of the NTIA.

6. Estimated cost of state and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Carol Cohen.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

S. 828, as reported, includes a modest increase in funding for NTIA from the levels of previous years. A small portion of the additional funds will be used to improve U.S. preparation for international telecommunications conferences and meetings and will have no impact on the regulatory arena. These modest authorizations should have no impact upon the number and types of individuals and businesses affected by the regulation; no economic impact on individuals, consumers, or businesses; no impact on the personal privacy of individuals affected by the bill; and should create no additional paperwork.

The remainder of the increase in funds relates to the PEACESAT program. The bill as reported authorizes $1.7 million in funding for the Secretary of Commerce for fiscal years 1988 and 1989. The Committee expects that the actual amount necessary to re-establish the PEACESAT progam will be much less than this amount. The bill as reported requires the Secretary of Commerce to assist in acquiring the satellite services necessary to re-establish PEACESAT and in administering the program. This requirement may cause the Secretary of Commerce to incur a slight amount of additional paperwork but should not alter the number of persons employed by the Department of Commerce. The Committee anticipates no other regulatory impact from the bill.

SECTION-BY-SECTION ANALYSIS

Section 1

This section authorizes funding for NTIA in the amounts of $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989.

Section 2

Subsection (a) sets forth the Congressional findings regarding the status of the Pacific Ocean region and its communications needs. The section notes that the Pacific Ocean communities are becoming increasingly important to the United States and that their communications needs are growing. Their available channels of communication have become limited, however, particularly because of the de-activation of NASA's ATS-1 satellite, which effectively terminated the PEACESAT program.

Subsection (b) sets forth the purpose of this section: to authorize initial funding and temporary acquisition of satellite services in order to re-establish the PEACESAT communications network for

the Pacific Ocean region until a commercially viable alternative becomes available.

Subsection (c)(1) charges the Secretary of Commerce with the responsibility for acquiring the satellite services necessary to re-establish the PEACESAT program. In determining the best set of satellite services to meet the demands of the former ATS–1 users, the Secretary of Commerce shall consider the costs and operation of the ground segment facilities as well as the space segment facilities.

Subsection (c)(2) permits the PEACESAT program to operate over the UHF frequencies currently assigned to the Department of the Navy for a period of three years. The provision permits this use to be preempted if the President determines that use of the frequency is essential to the national security of the United States. This subsection also requires the Secretary of the Navy to cooperate with the Secretary of Commerce in acquiring use of the necessary satellite services for use by PEACESAT if it is decided to operate the PEACESAT program over the UHF frequencies assigned to the Navy.

Subsection (c)(3) authorizes the Secretary of Commerce to provide adequate funding to the managers of the PEACESAT program to operate it. This subsection requires the PEACESAT managers to maintain sufficiently adequate records of their use of these funds to permit an audit of such funds. The Secretary of Commerce and the Comptroller General of the United States are authorized to conduct such audits and to have access to the pertinent financial records.

Subsection (d) authorizes $1.7 million in funds for fiscal years 1988 and 1989 for use by the Secretary of Commerce in carrying out the duties of the section, namely in acquiring the necessary satellite services for PEACESAT.

Subsection (e) requires the Secretary of Commerce to consult with appropriate Federal officials, PEACESAT program managers and other affected parties regarding long-term solutions to the communications needs of the Pacific Ocean population. This subsection requires the Secretary of Commerce to report to Congress within one year of enactment on the potential solutions to these needs.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

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Calendar No. 220

100TH CONGRESS *1st Session*	SENATE	REPORT 100-94

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL F/V "CREOLE"

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1198

JULY 1 (legislative day, JUNE 23), 1987.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1987

91-010

S263-10

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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Calendar No. 220

100TH CONGRESS
1st Session

SENATE

REPORT
100-94

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL F/V "CREOLE"

JULY 1 (legislative day, JUNE 23), 1987.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1198]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1198) to authorize a certificate of documentation for the vessel F/V *Creole,* having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

S. 1198, as reported, will restore the coastwise trading and fishing privileges to the vessel *Creole.*

BACKGROUND AND NEEDS

The provisions of the Jones Act prohibit the use of any U.S. vessel in the domestic coastwise trade which has been sold to a foreign citizen. When the facts surrounding any particular vessel involve this prohibition, the Coast Guard will not issue a document granting coastwise trading or fishing privileges.

The *Creole* (U.S. Official Number 229565), a motor yacht of 72 gross tons and 78 feet in length, was built in Houghton, WA, in 1930. The vessel was sold to a German citizen, removed from U.S. documentation on May 13, 1980, and was subsequently registered as a motorboat in the State of California.

The present owner, a U.S. citizen, purchased the vessel on August 6, 1981. The owner has conducted a six-passenger commercial charter operation since that time under a time-shared arrange-

ment. The Coast Guard informed the owner in April 1987, after 6 years of operation that the time-share arrangement is in violation of the Jones Act. He has no alternative other than a legislative waiver, and will be forced to miss a significant portion of the charter season this summer unless this waiver is enacted by Congress.

Legislative History

S. 1198 was introduced in the Senate on May 13, 1987. The Committee ordered the legislation reported without objection and without amendment on June 5, 1987.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1984, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 9, 1987.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1198, a bill to authorize a certificate of documentation for the vessel F/V *Creole,* as ordered reported by the Senate Committee on Commerce, Science, and Transportation, June 4, 1987. Enactment of this bill is not expected to have any impact on the federal budget or on those of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

S. 1198 will have no additional regulatory impact, and will result in no additional reporting requirements. The legislation will have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

Section-by-Section Analysis

The bill consists of one section. It provides that, notwithstanding certain sections of chapter 121 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date the bill is enacted, the vessel *Creole* may

be issued a document to engage lawfully in the coastwise and fisheries trades.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

○

Calendar No. 224

100TH CONGRESS *1st Session*	SENATE	REPORT 100-98

COAST GUARD AUTHORIZATION ACT OF 1987

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

together with

ADDITIONAL VIEWS

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1459

JULY 1 (legislative day, JUNE 23), 1987.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
91-010 WASHINGTON : 1987

S263-11

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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Calendar No. 224

100TH CONGRESS *1st Session* | SENATE | REPORT 100-98

COAST GUARD AUTHORIZATION ACT OF 1987

JULY 1 (legislative day, JUNE 23), 1987.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1459]

The Committee on Commerce, Science, and Transportation, having considered an original bill (S. 1459) to authorize appropriations for the Coast Guard for fiscal years 1988 and 1989, and for other purposes, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

S. 1459 would reauthorize appropriations for the U.S. Coast Guard for fiscal years 1988 and 1989, covering five appropriations accounts. Funds are authorized for the following accounts: (1) operations and maintenance (O&M); (2) acquisition, construction, and improvement of equipment and facilities (ACI); (3) research and development (R&D); (4) retired pay; and (5) alteration of bridges obstructing navigable waters. The bill also contains nine other changes to existing law applicable to the Coast Guard.

BACKGROUND AND NEEDS

The second largest entity within the Department of Transportation, the Coast Guard is the principal Federal maritime safety and law enforcement agency. Its typical civilian activities include vessel safety inspection, the rescue of life and property at sea, fishery law enforcement, marine environmental protection, and the interdic-

tion of drug trafficking. In addition, the agency carries out port security functions, cooperates closely with the other armed forces in military readiness activities, and has the lead responsibility for the coastal defense of the United States. In time of war and national emergency, the Coast Guard becomes an arm of the U.S. Navy.

The Coast Guard's authorization legislation expires at the end of fiscal year 1987, and the Committee supports reauthorization at levels that will permit the continuation of existing functions without reduction. The Coast Guard plays a critical role in stemming the flow of illegal drugs across our maritime borders, with respect to both smuggling by vessel and by air. The importance Congress places on this role is evidenced by fiscal year 1987 appropriations provided pursuant to the Anti-Drug Abuse Act of 1986. In addition, since 1982 the Coast Guard has been assigned the lead role in charge of the Nation's coastal defense and its cooperative implementation of the maritime defense zone concept with the other armed forces is still underway.

The Committee strongly supports the strengthening of these drug enforcement and military functions. However, as in prior years, the Committee does not wish these functions to be enhanced at the expense of essential lifesaving, navigational safety, environmental protection, and fishery enforcement functions.

Likewise, funding to upgrade the Coast Guard's equipment and facilities must receive continuing attention, but the Committee considers it essential that capital funding decisions be made in light of the cost of operating new equipment. For example, the Coast Guard Commandant has indicated that the Coast Guard will have to increase its current personnel strength because of the number of individuals needed to operate new equipment that will be placed into operation in late fiscal years 1988 and 1989.

Finally, the Committee has considered several matters that do not require legislation at this time. Among these are the Coast Guard's search-and-rescue activities at the Port of Bandon in Oregon. The Committee expects the Coast Guard to consult with port officials and the interested public with respect to the operation of its Coquille River Station at the Port of Bandon and to advise the Committee of the results of those consultations about necessary services before taking any action to reduce or cease search-and-rescue operations at this station.

Legislative History

An authorization hearing of the full Committee and National Ocean Policy Study was held on April 9, 1987. Testimony was received from the Commandant of the Coast Guard, Adm. Paul A. Yost, concerning the agency's budget and programs. On June 4, 1987, the Committee, without objection, ordered S. 1459 to be reported. The Committee agreed to a provision prohibiting foreign construction of Coast Guard vessels.

Summary of Major Provisions

S. 1459 contains provisions applicable to Coast Guard appropriations, end-of-year military strength, and training loads for fiscal

years 1988 and 1989. Appropriations are authorized in the following amounts:

[Dollars in millions]

	Fiscal year—	
	1988	1989
O&M	$1,949.8	$2,085.0
ACI	277.9	289 0
R&D	20.1	20.5
Retired pay	386.7	390.0
Bridges	0	10.4

Other provisions include:

—A provision to limit the legal malpractice liability of Coast Guard legal personnel;

—A change to the Inland Navigational Rules to conform provisions applicable to mineclearance vessels to those in place for international navigation;

—A nonnavigability declaration for a drainage ditch in Camden, New Jersey, so as to eliminate the requirement for a Coast Guard permit to build a bridge over the ditch;

—A housing assistance provision to extend to the Coast Guard the benefits of an existing Defense Department program to help employees whose homes have lost their marketability as a result of an installation closure;

—A requirement for a helicopter base in Charleston, South Carolina;

—A requirement for a study of the merits of acquiring a mobile semisubmersible facility for drug law enforcement purposes;

—A requirement for a fresh review by the administration of national polar icebraking needs; and

—A prohibition against foreign construction of Coast Guard vessels.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 24, 1987.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached revised cost estimate for the Coast Guard Authorization Act of 1987. This estimate supersedes the previous one, dated June 16, 1987, and clarifies CBO's cost analysis of the Charleston, South Carolina air base.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: Coast Guard Authorization Act of 1987.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, June 4, 1987.

4. Bill purpose: This bill would authorize appropriations of $2,635 million for fiscal year 1988 and $2,795 million for 1989 for operating expenses, retirement costs, capital expenditures, and other activities of the U.S. Coast Guard (USCG). Fiscal year 1987 appropriations to date for these programs are $2,461 million, and the President has requested an appropriation of $2,620 million for 1988.

The bill would require the USCG to establish (within six months of enactment) a permanent, full-time helicopter base in Charleston, South Carolina, and would also require that all USCG vessels or major components must be built in a U.S. shipyard.

Finally, the bill contains a number of technical amendments and other provisions pertaining to such issues as defense of law suits, housing assistance, Maritime Defense Zone responsibilities, Coast Guard Auxiliary policy, and the disposal of vessels forfeited to the United States.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Estimated authorization level	2,248	2,405			
Estimated outlays	1,720	2,167	491	189	63

The authorization for Coast Guard retirement of $386.7 million in 1988 and $390 million in 1989 has not been included in the above table because such pay is an entitlement under current law.

The costs of this bill fall within budget function 400.

Basis of estimate: For the purposes of this estimate, it is assumed that the full amounts authorized for USCG programs will be appropriated for each fiscal year. The authorization levels are those specified in the bill. Outlays have been estimated on the basis of historical spending patterns.

No amounts have been included above for potential additional costs that may be incurred because of the prohibition against construction at foreign shipyards (Section 12). While additional costs may be incurred in the future if the USCG is forced to award a shipbuilding contract to a more expensive domestic shipyard rather than to a foreign competitor, it is not possible to estimate such costs without better information regarding the agency's construction plans. At present, no such construction has been approved, although the agency is currently evaluating its options with regard to the lease or purchase of two new icebreaking vessels. If pur-

chased from an American shipyard, the two ships are estimated to cost approximately $320 million each (in 1987 dollars, over several years, based on Department of Defense cost models rather than actual bids). Purchase from a European shipyard, however, could cost as much as 45 percent less (based on cost-differential information obtained from the Maritime Administration).

The preparation and development cost of the helicopter base mandated under Section 9, which is to be undertaken within the bill's authorization levels, is estimated to cost about $16 million over approximately two years. Of this amount, approximately $9 million is for the purchase of two helicopters. If the Coast Guard is able to move suitable aircraft from other bases to the new Charleston base, total costs of the new facility could be lower by up to $9 million. Initial and ongoing operating expenses are expected to be about $4 million a year beginning in 1988.

6. Estimated cost to State and local governments: None.

7. Estimated comparison: None.

8. Previous CBO estimate: On June 16, 1987, CBO transmitted a cost estimate for this bill to the Senate Committee on Commerce, Science, and Transportation. This estimate supersedes the previous one and elaborates on the possible costs of the new Charleston helicopter base. The total estimated cost of the bill remains unchanged.

9. Estimate prepared by: Deborah S. Reis.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

Sections 5 and 6 are the only two provisions in the bill that have a regulatory impact. Section 5 may cause mariners to alter their current practices while operating in the vicinity of mineclearance vessels. However, the true regulatory impact is negligible since mariners are not prohibited from operating in the mineclearance danger zone that is changed by section 6. In addition, by bringing domestic navigational rules into conformance with international rules, the impact should be positive be removing confusion about the danger zone. Section 6 removes a bridge permitting requirement for the City of Camden and thus reduces paperwork and other regulatory burdens accordingly.

The legislation will have no further effect on the economic impact of regulation, the personal privacy of affected individuals, or the paperwork required from individuals and businesses.

Section-by-Section Analysis

SECTION 1.—SHORT TITLE

The short title of the bill is the "Coast Guard Authorization Act of 1987".

SECTION 2.—AUTHORIZATION OF APPROPRIATIONS

This section contains all the fiscal year 1988 and fiscal year 1989 authorizations of appropriations for the Coast Guard's five main appropriations accounts. For fiscal year 1988 the sum of $1,949,813,000 would be authorized for O&M; $277,893,000 for ACI; $20,119,000 for R&D: and $386,700,000 for retired pay. No authorization is required for the bridge program for fiscal year 1988. These figures are consistent with the administration budget request, and are identical to the Committee's report of views and estimates for the Budget Committee. The authorization for O&M is approximately $80,800,000 over the fiscal year 1987 appropriation and for ACI is about $265,100,000 under the fiscal year 1987 appropriation.

For fiscal year 1989 $2,085,000,000 is provided for the O&M authorization; $289,000,000 for ACI; $20,500,000 for R&D: $390,000,000 for retired pay; and $10,400,000 for the alteration or removal of bridges over U.S. navigable waters. These authorization levels are consistent with the Committee's views and estimates report. The Coast Guard has assured the Committee that the bridge program authorization will be sufficient to permit the completion of work on the Willamette River bridge in Portland, OR. The Committee did not include funding for polar icebreaker procurement, pending a fresh review by the administration of national icebreaking needs under section 10 of the bill. It is anticipated that substantial additional authorizations for ACI may be required for icebreaker acquisition in fiscal year 1989. The Committee also recognizes the possibility that a further ACI increase in fiscal year 1989 may be requested for additional costs relating to the Fleet Renovation and Modernization (FRAM) program for the Coast Guard's high endurance cutters.

SECTION 3.—MILITARY STRENGTH AND TRAINING AUTHORIZATIONS

This section sets out end-of-year strengths for Coast Guard military personnel of 39,042 and 39,500 for fiscal year 1988 and fiscal year 1989, respectively. The addition of 458 personnel is an effort to address a shortage of positions required for operation of new Coast Guard equipment that will be coming on line in late fiscal year 1988 and fiscal year 1989. Section 3 also authorizes average military training loads for recruit and special training, flight training, professional training, and officer acquisition.

SECTION 4.—DEFENSE OF CERTAIN SUITS

This section contains an amendment that would afford professional malpractice protection for Coast Guard legal personnel that has already been made available to Defense Department legal personnel. For cases arising out of activities within the scope of the legal personnel's employment, this section would allow malpractice claims to be pursued only through applicable provisions of the Federal Tort Claims Act. The administration proposed this amendment.

SECTION 5.—INLAND NAVIGATIONAL RULES

This section, also requested by the administration, would amend provisions relating to "minesweeping" in Rules 3 and 27 of the Inland Navigational Rules Act of 1980. The change would make the rules consistent with the International Regulations for Preventing Collisions at Sea, thus helping to avoid confusion for vessels that have to operate under both sets of navigational rules. The section has two elements: (1) a change of terminology, and (2) an increase in the danger zone around vessels engaged in mineclearance operations. The terminology change makes it clear that the rules apply not just to vessels that sweep for mines, but also to vessels engaged in the location of mines or of protective measures against mines. The danger zone increase would bring the domestic navigational rules into conformity with the international rules, which were recently changed. The mineclearance danger zone was formerly "1,000 meters astern or 500 meters on either side" and was altered to "within 1,000 meters" all around. The zone is aimed at putting mariners on notice of the area to avoid when operating in the vicinity of mineclearance vessels.

SECTION 6.—DESIGNATION OF NONNAVIGABLE WATERWAY

This section applies to a drainage ditch in Camden, NJ, in the vicinity of a planned solid waste resource recovery facility to be built as part of the city's mandatory recycling program. A small bridge over the ditch is required for vehicles to reach the construction site. Because the ditch is affected by tidal waters of the Delaware River, it is technically "navigable" and a Coast Guard bridge permit would be required for the bridge. Section 6 would eliminate the need to undergo the normally lengthy process (one year or more) associated with obtaining a bridge permit from the Coast Guard for this ditch, by declaring it legally nonnavigable. Given that the drainage ditch is not used for navigation, the Coast Guard has expressed no objection to this section since navigation would be unimpeded by the small access bridge.

The Committee is normally quite reluctant to make statutory declarations of nonnavigability. However, an exception has been made in this case because of New Jersey's acute solid waste disposal problems and the likely consequences of requiring the completion of the full bridge-permitting process. This particular ditch is dry much of the time, and thus the need for a Federal bridge permit was not recognized until the project was well underway. Since all other permits, including Federal dredge and fill permits, are expected to have been issued by July 1987, the bridge permit process would delay the construction of the badly-needed recovery facility for months. It is conceivable that the project would have to be stopped altogether if the delay were to undercut seriously financing arrangements.

SECTION 7.—HOUSING ASSISTANCE TO CERTAIN EMPLOYEES

This section contains the provisions of S. 910, introduced by Senator Stevens on April 3. The proposal was prompted by the anticipated dislocations caused by the Coast Guard's recently-announced realignment plan that would consolidate into two regional support

centers certain support functions now performed at twelve different locations around the country. Section 7 would extend to Coast Guard employees the benefits of an existing Defense Department program relating to the adverse impact on local housing markets of complete or partial closures of facilities. The program authorizes the Secretary of Defense to acquire title to, hold, manage, and dipose of property affected by a pending or actual installation closure, where the closure results in no present market for the sale of that property under reasonable terms and conditions. At the authorization hearing, the Coast Guard Commandant stated support for the proposal. The Corps of Engineers, which administers the current program, would also administer the Coast Guard portion of the program, although Defense Department funds would not be involved. Coast Guard operations and maintenance funding would be used to pay for any expenses relating to assitance to Coast Guard employees.

SECTION 8.—HELICOPTER BASE

This section requires the establishment of a fulltime, permanent helicopter base at Charleston, SC, not later than six months after the date of the bill's enactment into law. The South Carolina coast currently has limited access to helicopter assistance, despite a rapidly growing coastal population and Charleston's importance as one of the top five strategic ports in the Nation. At present, helicopters must be summoned from remote locations to provide assistance for life-saving purposes or in connection with port security, drug interdiction, and coastal defense activities. This section will ensure that a Coast Guard helicopter is available on an around-the-clock basis, and will enable the Coast Guard to improve substantially its ability to carry out its duties in Charleston and along the South Carolina coast. The base is to be patterned on the recently-established Coast Guard Air Facility, Newport, OR. Helicopters shall be provided for the Charleston base in such a way as to avoid impact on Coast Guard capabilities to meet search-and-rescue readiness and law enforcement program requirements at other locations. The Committee expects to be advised by the Coast Guard of its plans for making helicopters available for the base, prior to implementation of those plans. The Committee also anticipates that the Coast Guard will guard against excessive costs in establishing and operating the Charleston base.

SECTION 9.—MOBILE LAW ENFORCEMENT BASE

This section pertains to the possible acquisition by the Coast Guard of a mobile submersible facility that could be used for drug enforcement purposes, especially in key interdiction areas in the Caribbean and Gulf of Mexico. The section calls for the Secretary of Transportation to evaluate the advantages and disadvantages of acquiring such a facility, and to report the results of the evaluation to the Committee and the House Merchant Marine and Fisheries Committee within three months after the date of enactment of the bill.

SECTION 10.—ICEBREAKER STUDY

This section calls for a review of existing national needs for polar icebreakers, particularly with respect to U.S. national security, scientific, economic, and environmental interests. The study is to be performed by the Secretary of Transportation, in consultation with the Secretary of Defense, Secretary of Commerce, Director of the National Science Foundation, and the heads of other affected Federal agencies, including the Arctic Research Commission. A report of the study is to be submitted to the Committee and the House Merchant Marine and Fisheries Committee no later than January 1, 1988. Four areas of focus are to be included in the report:

—An assessment of the number and capabilities of polar icebreaking vessels required in the national interest;

—A comparison of the merits of foreign construction of icebreakers versus domestic construction;

—A comparison of the merits of leasing polar icebreakers versus purchasing them;

—Funding and legislation required to meet the national icebreaking needs.

SECTION 11.—COAST GUARD VESSEL CONSTRUCTION

This section would prohibit Coast Guard vessels, including its polar icebreakers, from being constructed in foreign shipyards. The language is patterned on section 7309 of title 10, United States Code, which states that "no naval vessel, and no vessel of any other military department, and no major component of the hull or superstructure of any such vessel, may be constructed in a foreign shipyard." The Coast Guard becomes a specialized service of the U.S. Navy in time of war, but section 7309 has been interpreted not to cover Coast Guard vessels. This is because neither the Coast Guard nor its present home, the Department of Transportation, is a "military department."

Section 11 includes a provision allowing the President to authorize exceptions to the prohibition against foreign construction if the President determines it is in the national security interest of the Nation to do so. Under this provision, the President must notify Congress of any such determination, and no contract may be made pursuant to the exception until the end of the 30-day period beginning with the date the notification is received by Congress. This language is identical to the Presidential override provision in 10 U.S.C. 7309 applicable to naval vessels.

The Committee notes that the statutory authority establishing the Coast Guard (section 1 of title 14, United States Code) states that "the Coast Guard . . . shall be a military service and a branch of the armed forces of the United States at all times." In addition, all of its vessels are subject to the control of the U.S. Navy in wartime. Thus it makes sense that the policy for construction of Coast Guard vessels be the same as for naval vessels and other Defense Department vessels. Section 11 will help bolster the Nation's industrial shipbuilding capacity and will eliminate the need for extra security precautions that would most likely be required for foreign construction of a Coast Guard vessel.

Rollcall Votes in Committee

In accordance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following record votes during its consideration of the original bill:

On the amendment offered by Senator Breaux regarding construction of icebreakers:

YEAS—14	NAYS—4
Mr. Hollings	Mr. Rockefeller
Mr. Inouye [1]	Mr. Danforth
Mr. Ford	Mrs. Kassebaum
Mr. Riegle [1]	Mr. Pressler [1]
Mr. Exon	
Mr. Gore [1]	
Mr. Kerry	
Mr. Breaux	
Mr. Adams	
Mr. Stevens [1]	
Mr. Kasten	
Mr. Trible [1]	
Mr. Wilson	
Mr. McCain	

[1] By proxy.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10, UNITED STATES CODE

Section 1054 of that title

§ 1054. Defense of certain suits arising out of legal malpractice

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any person who is an attorney, paralegal, or other member of a legal staff within the Department of Defense (including the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32) *or the United States Coast Guard*, in connection with providing legal services while acting within the scope of the person's duties or employment, is exclusive of any other civil action or proceeding by reason of the same subject matter against the person (or the estate of the person) whose act or omission gave rise to such action or proceeding.

(b)–(f) * * *

(g) In this section, the term "head of the agency concerned" means the Secretary of Defense, *the Secretary of Transportation*, or the Secretary of a military department.

TITLE 14, UNITED STATES CODE

Section 92 of that title

§ 92. Secretary; general powers

(a)–(d) * * *

(e) perform all functions of the Secretary of Defense under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), for purposes of assisting civilian and military employees of the Coast Guard as if they were employees of the Department of Defense with regard to any closing, in whole or in part, of an installation ordered by the Coast Guard, except that—

(1) funds available to the Secretary for such purpose shall be limited to such sums as may, from time to time, be appropriated for operations and expenses of the Coast Guard; and

(2) any such funds shall be maintained in a separate account in the fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(d)) for activities of the Secretary under this paragraph.

(f)–(i) * * *

Chapter 17 of that title

Sec.
631. Delegation of powers by the Secretary.

* * * * * * *

664. User fees.
665. Restriction on construction of vessels in foreign shipyards.

Section 664 of that title

§ 664. User fees

* * * * * * *

§ 665. Restriction on construction of vessels in foreign shipyards

(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.

THE INLAND NAVIGATIONAL RULES ACT OF 1980

Section 2 of that Act

SEC. 2. Inland Navigational Rules:

PART A—GENERAL

Rules 1-2 * * *
Rule 3:

GENERAL DEFINITIONS

For the purpose of these Rules and this Act, except where the context otherwise requires:
(a)–(f) * * *
(g) The term "vessel restricted in her ability to maneuver" means a vessel which from the nature of her work is restricted in her ability maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

(i) a vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;

(ii) a vessel engaged in dredging, surveying, or underwater operations;

(iii) a vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;

(iv) a vessel engaged in the launching or recovery of aircraft;

(v) a vessel engaged in [minesweeping] *mineclearance* operations; and

(vi) a vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h)–(q) * * *

* * * * * * *

PART C—LIGHTS AND SHAPES

Rules 20–26 * * *
Rule 27:

VESSELS NOT UNDER COMMAND OR RESTRICTED IN THEIR ABILITY TO MANEUVER

(a) * * *
(b) A vessel restricted in her ability to maneuver, except a vessel engaged in [minesweeping] *mineclearance* operations, shall exhibit:

(i) three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(ii) three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(iii) when making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subparagraph (b)(i); and

(iv) when at anchor, in addition to the lights or shapes prescribed in subparagraphs (b)(i) and (ii), the light, lights or shapes prescribed in Rule 30.

(c)–(e) * * *

[(f) A vessel engaged in minesweeping operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach closer than 1,000 meters astern or 500 meters on either side of the minesweeper.]

(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.

(g)–(h) * * *

ADDITIONAL VIEWS OF MR. DANFORTH

I have supported efforts to maintain our merchant marine and U.S. shipbuilding capability. Indeed, my compromise cruise ship proposal (S. 1935), unanimously reported by this Committee and passed by the Senate during the 99th Congress, was designed to protect the Jones Act fleet and U.S. shipyards.

Notwithstanding my support for U.S. shipbuilding, I oppose Section 12 of the bill requiring construction of all Coast Guard vessels in U.S. shipyards because I believe it is premature in light of the study mandated by Section 11 of the bill, unjustified by the facts and applicable law, and contrary to sound fiscal and trade policy.

FACTS

The text of Section 12 was not before the Committee at the time of its April 8, 1987, hearing on authorization of appropriations for the Coast Guard, and no testimony was presented in support of its provisions.

Following the hearing, the Chairman asked the Commandant of the Coast Guard how much more it would cost to build an icebreaker in the United States, rather than abroad, and whether there would be any national security risks in building it abroad. The Commandant responded for the record that no national security risks have been identified in building an icebreaker abroad and that the Coast Guard cannot predict the costs of construction in foreign shipyards until it solicits proposals. These views were reaffirmed by letters from the Secretary of Transportation and from the Secretaries of Defense, Commerce, and the United States Trade Representative opposing the provision and indicating again that there is no national security justification for the ban on all foreign construction.

As for the costs of the provision, the Congressional Budget Office estimates that the cost of building an icebreaker abroad could be as much as 45 percent less than building it in the United States. This means that U.S. taxpayers could pay as much as $288 million more in 1987 dollars to obtain just two icebreakers built in the United States.

THE SECTION 11 STUDY

Section 11 of the bill was included to address the specific questions raised at the hearing. It calls for a report by January 1988 on the national needs for polar icebreakers, with an evaluation of the relative merits of foreign and domestic construction. This section reflects the fact that the Committee does not know what is needed, or where icebreakers should be built, and that the Committee cannot decide those questions until it receives facts and recommen-

dations from the Coast Guard and the agencies with which it is directed to consult.

No icebreakers are going to be purchased or leased in the near future. There is absolutely no justification for rushing to judgment on this issue without the facts which the Section 11 study would provide by January 1988. The proper way to consider and decide this issue is to await the results of the Section 11 study, hold hearings on a bill if new information suggests that legislation is needed, and afford administration and other witnesses the opportunity to present their views.

APPLICABLE LAW

If further study determined that there were a national security risk in building a vessel abroad, Section 12 would be unnecessary because the Coast Guard already has authority under existing procurement law to reject a foreign bid if construction in that nation would propose a national security risk. The Secretary of Transportation's letter also establishes the authority under the "Competition and Contracting Act," the Federal Acquisition Regulations, and the Merchant Marine Act, 1936, to require construction in the United States, on a case-by-case basis, in order to maintain domestic shipyard mobilization capability. Thus, Section 12 is unnecessary to achieve national security goals.

Existing procurement law also already favors U.S. yards over foreign bidders. Foreign bids are adjusted by adding a percentage to the total cost, and another increment to that if the firm submitting the low domestic bid is a small business concern or a "labor surplus area" concern.

These factors, among others, may help to explain why the Coast Guard has never accepted a foreign bid to build a vessel, and is not likely to do so under current law.

POLICY

Section 12 places an exceedingly difficult, if not impossible, burden on the President to justify building any Coast Guard vessel abroad by requiring the President to determine that it is in the national security interests of the United States to do so. Rather than banning foreign construction if it poses a national security risk, this Section reverses the burden in apparent recognition that there clearly is not a national security reason to ban construction of all vessels in all foreign shipyards.

The effect of Section 12 is to prohibit the Coast Guard from even considering the purchase or lease of any foreign-built vessel, even if it is as good or better than a U.S.-built vessel, poses no national security risk, and is far less expensive for U.S. taxpayers. As such, Section 12 serves neither national security nor fiscal policy goals.

There are also significant implications for U.S. trade policy. The United States is currently negotiating in an effort to include transportation products under the Government Procurement Code of GATT. As the Secretary of Commerce and the United States Trade Representative advised the Committee, this "Buy-American" restriction will send exactly the wrong signal to our trading partners, and it risks a potentially devastating impact on U.S. jobs if other

nations impose similar prohibitions to deny us access to their markets.

CONSLUSION

For all of these reasons, the Senate should refrain from this untimely rush to prohibit foreign construction of Coast Guard icebreakers. The case has not been made on the merits, and Section 12 as currently drafted seems certain to have negative trade policy effects. The logical course to follow would be to postpone a final decision until the results of the Section 11 study are available early next year.

JACK DANFORTH.

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